

P888/CI-90-324 INITIATING INVESTIGATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of an Investigation By the  
Minnesota Public Utilities Commission Into  
the Unauthorized Resale of Local Telephone  
Service

ISSUE DATE: May 11, 1990

DOCKET NO. P888/CI-90-324

ORDER INITIATING INVESTIGATION

**PROCEDURAL HISTORY**

On March 12, 1986, Duddy Limited Partnership (Duddy) filed a petition with the Commission for a certificate of public convenience and necessity pursuant to Minn. Stat. § 237.16 (1986) to resell local telephone service to tenants in its downtown Minneapolis building. In the Matter of the Application of Duddy Limited Partnership for a Certificate of Convenience and Necessity to Resell Long Distance and Local Telephone Service in Minnesota, Docket No. P-467/M-86-141.

On April 29, 1987, the Commission issued an order granting Duddy a certificate of temporary authority to resell local telephone service. Application of Duddy, Docket No. P-467/M-86-141, ORDER GRANTING PERMANENT AUTHORITY TO RESELL LONG DISTANCE SERVICE AND TEMPORARY AUTHORITY TO RESELL LOCAL TELEPHONE SERVICE (April 29, 1987).

On the same day, April 29, 1987, the Commission initiated an investigation into the resale of local telephone service. In the Matter of an Investigation By the Minnesota Public Utilities Commission Into the Resale of Local Telephone Service, Docket No. P-999/CI-87-228, ORDER INITIATING INVESTIGATION (April 29, 1987).

On July 15, 1988, the Commission decided to propose a rule governing the resale and sharing of local telephone services. The Commission closed its investigation (Docket No. P-999/CI-87-228) and established a rulemaking docket (Docket No. P-999/R-88-357).

On August 1, 1988, the Commission published a Notice of Intent to Solicit Outside Information and after receiving and reviewing comments from 20 parties, established a 15 person Task Force to identify the issues involved in the sharing and resale of local telephone services.

During the Task Force meetings, Commission Staff became aware that some companies may be reselling local telephone services without authorization from the Commission.

On May 1, 1990, the Commission met to consider this matter.

### **FINDINGS AND CONCLUSIONS**

Any party that furnishes telephone service to the public is a "telephone company" as defined in Minn. Stat. § 237.01, subd. 2. Minn. Stat. § 237.64 provides that no telephone company may provide telephone service in Minnesota until 90 days after registering with the Minnesota Public Utilities Commission and posting such bond as may apply under Minn. Stat. § 237.64, subd. 2. Further, no telephone company may furnish telephone service in territory already served by a telephone company without first obtaining a certificate of authority from the Commission as required by Minn. Stat. § 237.16. Accordingly, any party furnishing telephone service to the public without registering pursuant to Minn. Stat. § 237.64 is acting illegally. Further, provision of telephone service to the public in an area already served by another telephone company without having obtained a certificate of convenience and necessity from the Commission is also illegal, unless the party is a "shared tenant service provider" who has exemption from this certification requirement under Minn. Stat. § 237.68.

The Commission has general investigatory powers under Minn. Stat. § 237.081, subd. 1. into "any matter relating to telephone service". The Commission finds that the possible provision of local telephone service in violation of basic Minnesota utility law is an appropriate matter for investigation and will initiate an investigation into this matter.

The Minnesota Department of Public Service (the Department) is charged with performing all duties relating to the execution and enforcement of Minn. Stat. Chapter 237 and the orders of the Commission, including the investigation of activities incident to such laws and orders. See: Minn. Stat. §§ 216A.02, subd. 3 and 216A.07, subds. 1 and 2. In aid of its investigation, then, the Commission will direct the Minnesota Department of Public Service to conduct an investigation to determine the identity and circumstances of any party who may be reselling local telephone services without authorization from the Commission. The Department will be required to submit its report and recommendations in this matter within 60 days of the issue date of this Order.

### **ORDER**

1. The Commission hereby initiates an investigation into the unauthorized resale of local telephone services in Minnesota.

2. The Minnesota Department of Public Service is hereby directed to conduct an investigation into the unauthorized resale of local telephone services in Minnesota.
3. The Minnesota Department of Public Service shall file its report of its investigation and recommendations within 60 days of the issue date of this Order.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)